



The Judiciary, State of Hawai‘i

Testimony to the House Committee on Public Safety, Veterans, and Military Affairs

Representative Gregg Takayama, Chair

Representative Cedric Asuega-Gates, Vice Chair

Wednesday, March 13, 2019, 10:30 AM
State Capitol, Conference Room 430

by

Shirley M. Kawamura
Deputy Chief Judge, Criminal Administrative Judge
Circuit Court of the First Circuit
Reporter, Criminal Pretrial Task Force

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 192, S.D. 1, Relating to Bail.

Purpose: Authorizes a defendant in custody to petition a court for unsecured bail.

Judiciary's Position:

The Judiciary appreciates the intent of this proposed bill but respectfully suggests that the Committee defer consideration of this bill. The HCR 134 Criminal Pretrial Practices Task Force proposed significant legislation regarding pretrial release, which may alleviate some of the concerns underlying this bill.

Senate Bill No. 192 authorizes a defendant in custody to petition a court for unsecured bail bond. However, the proposed bill does not set forth any procedures with respect to implementation of the unsecured bond.

The bill proposes “[i]n event that a defendant fails to appear in court as required or breaches any other condition of release, the court shall take appropriate steps to collect the amount of the unsecured financial bond from the defendant or any additional obligors originally required by the court.” The court currently is not equipped to collect funds from a defendant or



Senate Bill No. 192, S.D.1, Relating to Bail
House Committee on Public Safety, Veterans, and Military Affairs
Wednesday, March 13, 2019
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an obligor. Such a responsibility will require significant and appropriate resources for implementation. Without the ability to enforce collection, any incentive for defendants to return to court would be lost.

Moreover, unsecured bonds may be unnecessary. In state court, defendants eligible for supervised release are already released without any financial obligation. Non-financial release alternatives are already utilized. Defendants can be release on their own recognizance, on supervised release to the Department of Public Safety's Intake Service Center, on supervised release to a sponsor (often a family member or friend with a stable residence), or on supervised release to a treatment program. Because non-financial release alternatives are already available, there is little need for unsecured bonds.

Thank you for the opportunity to testify on this matter.



**SB192 SD1
RELATING TO BAIL**

House Committee on Public Safety, Veterans, & Military Affairs

March 13, 2019

10:30 a.m.

Room 430

The Office of Hawaiian Affairs (OHA) **STRONGLY SUPPORTS** SB192 SD1, a measure in OHA's 2019 Legislative Package. **This bill would give judges the option to offer "unsecured bail," or a promissory note, to certain incarcerated individuals, as a means to reduce the severe and disproportionate consequences of cash bail on indigent defendants and communities, relieve the overcrowding of our detention facilities, and save significant taxpayer dollars.**

Unfortunately, our current cash-secured bail system has resulted in harmful, unnecessary socioeconomic impactsⁱ on low-income individuals and their families, a majority of whom are Native Hawaiian. The purpose of bail is to not to punish the accused, but to allow for their pretrial release and ensure their return to court; however, our cash bail system as applied effectively punishes low-income defendants without even a trial. Unlike the wealthy, indigent defendants often may not be able to come up with their categorically predetermined cash bail amounts up front, particularly when they may already be struggling to pay their rent, or support their families. For such individuals, being too poor to surrender their cash bail amount means not only the loss of their freedom for weeks, months, or longer, but can also result in the loss of their jobs, housing, and even custody of their children. In effect, our cash bail system punishes poor individuals and their families without any trial or conviction; many indigent defendants facing uncertain and potentially lengthy trial timelines may even forego their right to a trial, and agree to plea deals in exchange for more certain release dates. Notably, detaining individuals for weeks or months before their trial simply because they are too poor to post bail also represents a substantial cost to taxpayers,ⁱⁱ and further exacerbates the overcrowding in our detention facilities.ⁱⁱⁱ

SB192 SD1's unsecured bail alternative will help to ensure that poor defendants are not unnecessarily punished by our secured-cash bail system. Rather than requiring defendants granted cash bail to surrender their entire bail amount up-front, SB192 SD1 gives judges the option to allow certain defendants to secure their release by signing a promissory note for all or part of their bail amount. Specifically, judges may make such an "unsecured bail" option available to a defendant granted cash bail who 1) would face financial hardship in surrendering their set bail amount or paying a bail bonding agent, and 2) would face threats to their employment, housing, health, or family stability if they were to remain incarcerated pending trial; judges may make their decision based on a

defendant's and their co-signers' financial and personal circumstances, pre-trial risk assessment factors, the offense charged and potential sentence carried, and any other relevant factors. Should a defendant fail to appear at trial or violate any conditions of their release, the promissory note and any surrendered bail amount would ensure that the defendant and their cosigners are still held financially accountable. Accordingly, SB192 SD1 is a tailored and targeted approach to mitigate the harsh and disproportionate consequences of cash bail on poor defendants and their families. **Notably, SB192 SD1 does not limit judicial discretion in setting bail amounts or even granting bail; if a defendant poses a flight risk or threat to public safety, judges may still deny bail altogether.**

In other jurisdictions and in the federal system, unsecured bail has been shown to relieve the burden of cash bail on the poor, while at the same time reducing the overcrowding of detention facilities, with studies further showing no effect on trial appearance rates. For example, the Federal District of Hawai'i uses unsecured bail along with recognizance and conditional and supervised releases to execute 98 percent of its pretrial releases, without any cash, property, or other security.^{iv} Notably, the Federal District also reports that zero percent of their released defendants fail to appear for trial.^v Studies from other jurisdictions also show that unsecured bail is **just as effective** at ensuring defendants' court appearance and maintaining public safety as cash-secured bail, while being **far more efficient** than cash bail at freeing up jail space.^{vi} Thus, **SB192 SD1's unsecured bail system offers an alternative that can reduce the severe consequences of cash bail on poor defendants and communities, provide relief to rampant overcrowding in our detention facilities, and save taxpayer dollars —without affecting trial appearance rates or public safety.**

OHA notes that SB192 SD1's proposed unsecured bail system does not conflict with the recommendations of the HCR134 Task Force on pretrial reform. In fact, SB192 SD1's unsecured bail proposal complements the Task Force's recommendations, by mitigating the disparate impacts of cash bail that may remain even if the Task Force's recommendations are adopted. SB192 SD1's proposed system can also stand alone as an independent approach to reducing the impacts of the cash bail system on poorer communities, should the Legislature decline to adopt some or all of the Task Force's recommendations.

For the reasons set forth above, OHA respectfully urges the Committee to **PASS** SB192 SD1. Mahalo piha for the opportunity to testify on this important measure.

ⁱ Socioeconomic effects include daily costs of detaining each inmate, family separations, child and welfare interventions, loss of family income, reduction of labor supply, forgone output, loss of tax revenue, increased housing instability, and destabilization of community networks. See, e.g., MELISSA S. KEARNEY THE ECONOMIC CHALLENGES OF CRIME & INCARCERATION IN THE UNITED STATES THE BROOKINGS INSTITUTION (2014) available at <https://www.brookings.edu/opinions/the-economic-challenges-of-crime-incarceration-in-the-united-states/>.

ⁱⁱ On average, it costs \$182 per day—\$66,439 per year—to incarcerate an inmate in Hawai'i. STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY: FISCAL YEAR 2018 ANNUAL REPORT 16 (2018) available at <https://dps.hawaii.gov/wp-content/uploads/2018/12/PSD-ANNUAL-REPORT-2018.pdf>.

ⁱⁱⁱ All four of the state-operated jail facilities—where pretrial defendants are detained—are assigned populations between 166-250% of the capacities for which they were designed and hold populations amounting to 127-171% of their modified operational capacities. STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY, END OF MONTH POPULATION REPORT, NOVEMBER 30, 2018 available at <https://dps.hawaii.gov/wp-content/uploads/2018/12/Pop-Reports-EOM-2018-11-30.pdf>.

^{iv} Carol M. Miyashiro, Chief U.S. Pretrial Services Officer, U.S. District Court-District of Hawaii, Presentation to HCR 134 (2017) Task Force (Aug. 11, 2017).

^v Refers to the calendar year period from April 1, 2016 through March 31, 2017. *Id.*

^{vi} See, e.g., MICHAEL R. JONES, UNSECURED BONDS: THE AS EFFECTIVE AND MOST EFFICIENT PRETRIAL RELEASE OPTION 10-11, 14-15 (2013).



Office of the Public Defender State of Hawai'i

LATE



Testimony of the Office of the Public Defender, State of Hawai'i to the House Committee on Public Safety, Veterans & Military Affairs

Prepared by William C. Bagasol, Supervising Deputy Public Defender

March 12, 2019

S.B.192, SD1: RELATING TO BAIL

Chair Gregg Takayama, Vice Chair Cedric Asuega Gates and Members of
the Committee:

The Office of the Public Defender strongly supports S.B. 192, HD 1

All too often individuals charged with a crime remain in custody unable to post bail. Many of these people are not dangerous but they and their families are unable to gain release simply because of they are too poor. This unnecessary incarceration causes a myriad of social and economic problems. The current money bail system unfairly impacts the poor which results in needless incarceration and eventual increased burdens to Hawai'i taxpayers.

The Office strongly supports this measure allowing for **unsecured bond** as part of an efficient and fair pretrial system. Many defendants are not able to post cash bail or to work with bail bond company that may require cash and collateral for the posting of bail. People will often be left with a hard-financial choice to use limited resources for basic necessities or to make bail for themselves or a loved one. Unsecured bond offers some relief and gives the Court another option or tool for assuring a defendant's appearance in court while allowing release of individual that should not otherwise be incarcerated. This method of release has proven successful in other jurisdictions, such as in the Federal Criminal Justice system. In the Federal system, defendants are released via unsecured bond, and in most cases, they return to court and discharge their obligations to the court. The same think can be done here in

Hawai'i. Furthermore, under the proposed measure, the court may still impose additional other types of conditions if it still deems it appropriate.

While unsecured bond was not one of the recommendations of the Pretrial Task Force, the proposal is certainly not inconsistent with its purpose or recommendations. We therefore respectfully support the passage of S.B. 192, SD 1 out of your committee.

SB-192-SD-1

Submitted on: 3/11/2019 11:53:18 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Bergquist	Drug Policy Forum of Hawaii	Support	No

Comments:

Chair Takayama, Vice Chair Gates, Committee Members:

DPFH strongly supports SB192 SD1 that would create a more fair and equitable bail process by providing judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming data nationwide shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Those individuals are all too often charged with non-violent drug offenses.

Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has multiple detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail, the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail, without having to pay cash upfront. Data has shown that unsecured bail is just as effective at ensuring defendants' court appearance and maintaining public safety as cash bail, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary impacts on indigent families. DPFH humbly requests that you pass SB192 SD1 out of your committee.



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
March 13, 2019
Re: SB 192 SD1 Relating to Bail**

Good morning Chairperson Takayama members of the Senate Committee on Public Safety Veterans & Military Affairs. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) as founded in 1901 and is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

While we understand the intent, RMH is strongly opposed to SB 192 SD1 Relating to Bail. This measure authorizes a defendant in custody to petition a court for unsecured bail.

This bill essentially gives those who “allegedly” committed a non-violent crime to be caught and released without much consequence or an assurance they will in fact show up for court.

In 2016 the legislature raised the felony theft charge from \$300 to \$750. Since then, many retailers have been facing an upward increase in theft – from designer clothing to hand bags to sunglasses to electronics to spam to cosmetics to liquor to tobacco to name a few. While some thieves steal right under \$750 many go above and beyond. The thieves are part of organized retail crime and come into the stores daily with a list of items, like your grocery list, of things that they are going to steal. They consider stealing from our stores their daily job.

It is a losing battle for many retailers where the police may or may not catch and arrest the thieves. When HPD does arrests them and lets them go after being processed, the thieves are right back into the stores stealing again. Then it is the prosecutors who may or may not prosecute them regardless of the number of priors they have. IF they don't prosecute, the thieves are right back in the stores stealing. If we are lucky to get a prosecution, the judges often let the thieves off easy with a slap on the wrist as it is a non-violent crime and within hours the thieves are back in the stores stealing again.

Although these crimes are not violent, they are still crimes and the victims are not just the retailers but the community as well. There is only so much a retailer can absorb before we have to raise the prices of items to cover the loss. And there is a limit on how much we can raise our prices to remain competitive and in business. When we raise our prices the cost of living in Hawaii also increases. The alternative we have is to let go hard working law abiding employees or close our doors for good.

If you can't afford the crime – don't do the crime. We urge you to hold this measure. Mahalo again for this opportunity to testify.



SB-192-SD-1

Submitted on: 3/8/2019 11:20:15 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Senators,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of SB 192 SD1.

Our current bail system has turned our jails into a debtor's prisons. This is unacceptable to the LGBT Caucus. This proposed change will allow the judicial system to view people as people. It will help with the over crowding while protecting society from violent offenders.

Mahalo for your consideration and for the opportunity to testify.

Mahalo,

Michael Golojuch, Jr.
Chair
LGBT Caucus of the Democratic Party of Hawaii

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: [\(808\) 927-1214](tel:8089271214) / kat.caphi@gmail.com



COMMITTEE ON PUBLIC SAFETY, VETERANS, AND MILITARY AFFAIRS

Rep. Gregg Takayama, Chair

Rep. Cedric Gates, Vice Chair

Wednesday, March 13, 2019

10:30 am

Room 430

STRONG SUPPORT - SB 192 SD1- UNSECURED BAIL

Aloha Chair Takayama, Vice Chair Gates and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the families of **ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE** as well as the approximately 5,500 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that more than 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

SB 192 SD1 authorizes a defendant in custody to petition a court for unsecured bail.

Community Alliance on Prisons is in strong support of releasing people on unsecured bonds who present no flight risk or threat of imminent harm. An unsecured bond is a commitment/contract signed by the defendant who agrees to appear before the court. If s/he fails to do so, s/he promises to pay the agreed bail bond amount if s/he fails to appear in court. Let's remember that these individuals are innocent until proven guilty.

Hawai'i's bail system has created a debtor's prison in defiance of the Hawai'i Constitution:

Article 1.19 Imprisonment for debt There shall be no imprisonment for debt.

[Ren Const Con 1978 and election Nov 7, 1978]

The current system has turned OCCC into Hawai'i's answer for housing - very expensive and substandard housing, at that - for our most vulnerable people.

This bill complements the HCR 134 Task Force and gives the court another tool -- the option to allow certain defendants to secure their release by signing a promissory note for all or part of their bail amount.

Community Alliance on Prisons urges the committee to pass this important bill!

Mahalo for this opportunity to testify.



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**House Committee on Public Safety, Veteran's &
Military Affairs**

**Hawai'i Alliance for Progressive Action (HAPA)
SUPPORTS SB 192 SD1**

Aloha Chair Takayama, Vice Chair Gates & Members of the
Committee,

On behalf of the Hawai'i Alliance for Progressive Action (HAPA) I
submit this testimony in strong support of SB 192 SD1. HAPA is a
state-wide environmental, social and economic justice organization
that engages over 10,000 local residents throughout Hawai'i
annually.

SB 192 would create a more fair and equitable bail process by
providing judges with an additional tool that does not penalize poor
defendants simply because they cannot afford bail. Overwhelming
data nationwide shows that pre-trial cash bail disproportionately
impacts poor defendants and is a major factor in overcrowding of
detention facilities. While the bail system is intended to allow for
the release of accused individuals while they await a fair trial, it
often punishes the poor who cannot afford to post bail. Remaining
in jail for months or even years awaiting trial has become the norm
for many poor defendants. This has multiple detrimental impacts
on those defendants and their families. Another by-product of this
flawed process is overcrowding of Hawai'i's jails, which ends up
costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering
poor defendants who cannot afford to post bail, the option of
unsecured bail. This means that by signing a promissory note, and
a commitment to attend their trial, an indigent defendant could be
released on bail, without having to pay cash upfront. Data has
shown that unsecured bail is just as effective at ensuring
defendants' court appearance and maintaining public safety as
cash bail, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary impacts on indigent families. I humbly request that you pass SB 192 out of your committee.

Respectfully,

A handwritten signature in black ink, appearing to read 'Anne Frederick', with a stylized, cursive script.

Anne Frederick,
Executive Director

SB-192-SD-1

Submitted on: 3/11/2019 1:32:45 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lorenn Walker	Hawai'i Friends of Restorative Justice	Support	No

Comments:

Thank you for your public service.

We strongly support this bill to improve our justice system by allowing judges discretion in giving defendants who cannot afford to post money bail the opportunity to post unsecured bail. Research shows this is as effective as cash bail.

The Vera Institute last year found:

"[A] small cohort of cases tells a fascinating story of how a change in practice can potentially have a significant impact on reducing the use of pretrial detention without compromising public safety or rates of court appearance" <https://www.vera.org/publications/against-the-odds-bail-reform-new-york-city-criminal-courts>.

We are a non-profit incorporated in 1981 to improve the justice system and have published over 40 papers and several books about our work that has been replicated in other countries and states.

Please contact me at lorenn@hawaiiifriends.org or (808) 218-3712 if you have questions about our support for this measure.

Mahalo, Lorenn Walker, JD, MPH

SB-192-SD-1

Submitted on: 3/8/2019 3:58:50 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Comments	No

Comments:

We believe that the various bail measures pending this session are significant proposals that could go a long way towards reforming our penal system in Hawaii. While the issue extends beyond those individuals with mental illness our focus is on that and unfortunately they do comprise a fairly high percentage of the pretrial inmates. Many of these individuals are arrested for relatively minor offenses and are held as pretrial detainees simply because they cannot post bond. While they are incarcerated their mental health can deteriorate. In reality they pose little risk of flight which is what the purpose of bail was intended to be. It makes no sense and serves no purpose to house these individuals for months on end while they are awaiting trial. If they are ultimately convicted and sentenced then so be it. However, in the meantime it is a waste of resources to the state to keep them there and it is an infringement on their liberty to be held simply because they are too poor to have the resources needed for the bail. Our facility at OCCC is particularly overcrowded and it would be a smart move for the state to seriously consider if it makes any financial sense to clog up the prison with individuals who do not pose a risk of not appearing for Court or any danger to the community.



SB 192, SD 1, RELATING TO BAIL

MARCH 13, 2019 · HOUSE PUBLIC SAFETY,
VETERANS, AND MILITARY AFFAIRS COMMITTEE ·
CHAIR REP. GREGG TAKAYAMA

POSITION: Support.

RATIONALE: IMUAlliance supports SB 192, SD 1, relating to bail, which authorizes a defendant in custody to petition a court for unsecured bail.

IMUAlliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided comprehensive direct intervention services to 135 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims in total. Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily trauma bonded to her pimp that while under his grasp, she couldn't remember her own name. Yet, sadly, many of the victims with whom we work are misidentified as so-called "voluntary prostitutes" and are subsequently arrested and incarcerated, with no financial resources from which to pay for their release.

Hawai'i has approximately 5,500 inmates, over, 1,500 of whom are incarcerated overseas, away from their families and homeland. According to a report by the American Civil Liberties Union released last year, pre-trial detainees in Honolulu wait an average of 71 days for trial because

they cannot afford bail. Additionally, researchers found that circuit courts in Hawai'i set money bail as a condition of release in 88 percent of cases, though only 44 percent of those people managed to post the amount of bail set by the court. Moreover, the study found the average bail amount for a Class C felony on O'ahu is set at \$20,000. Even with help from a bail bonding agency, posting bond, in such cases, would require an out-of-pocket expense of roughly \$2,000. Finally, while officials claim that bail amounts are supposed to be based on a consideration of multiple factors—including flight risk, ability to pay, and danger to the community—researchers learned that in 91 percent of cases in Hawai'i, money bail mirrored the amount set by police in arrest warrants, an amount based solely on the crime charged. These injustices led the ACLU to declare that our state's pretrial detention system was and remains unconstitutional.

Furthermore, as the visitor industry reaps record profits and supports expansion of the local prison-industrial complex, people of Native Hawaiian ancestry, who comprise approximately 25 percent of the state's population, continue to suffer the pangs of a biased criminal (in)justice system. Approximately 39 percent of incarcerated detainees are Hawaiian, according to a comprehensive study by the Office of Hawaiian Affairs, with the proportionality gap being even greater for Hawaiian women, who comprise 19.8 percent of the state's female population, but 44 percent of the state's female inmate population. Researchers also found that, on average, Hawaiians receive longer sentences, more parole revocations, and, importantly for this measure, **harsher drug-related punishments than other ethnic groups**. Therefore, passage this measure is a step toward reforming and preventing more people from becoming victims of our unjust and racially coded prison system.



AMERICANS FOR DEMOCRATIC ACTION

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March 11, 2018

TO: Honorable Chair Takayama & PVM Committee Members

RE: SB 192 SD1 Relating to Bail

Support for hearing on March 13

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support SB 192 SD1 as it would offer some defendants a non-monetary bail option. We incarcerate too many people at too much cost at O.C.C. C. This bill is a start.

Thank you for your favorable consideration.

Sincerely,

John Bickel, President



SB-192-SD-1

Submitted on: 3/12/2019 3:40:43 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Neil Ishida	ABC Stores	Oppose	No

Comments:

Aloha Chairperson Takayama and members of the Senate committee on Public Safety Veterans & Military Affairs.

ABC Stores strongly oppose SB 192 SD1 Relating to Bail. This measure authorizes a defendant in custody to petition a court for unsecured bail. This bill gives those who were arrested for a non-violent crime to be caught and released with little consequence, and with no assurance that they will in fact show up for court. It is a losing battle for us and other retailers where the police make the arrest, let them go after being processed, and they are right back into our stores stealing again. We urge you to hold this measure. Thank you for this opportunity to testify.



LATE

Wednesday, March 13, 2019

Senate Bill 192 SD1
Testifying in Support

Aloha Chair Takayama, Vice Chair Gates, and Members of the Committee on Public Safety, Veterans, and Military Affairs,

The Democratic Party of Hawai'i (The Party) **supports SB192 SD1 Relating to Bail**, which authorizes a defendant in custody to petition a court for unsecured bail.

The Party recognizes the undue and unnecessary burden the housing of non-violent offenders awaiting trial puts on our public safety resources. Overcrowding at Oahu County Correctional Center (OCCC) has been a public safety and health concern for some time. While the State moves forward with demolishing and replacing the facility, if nothing is done to significantly reduce the number of incarcerated persons awaiting trial, a new facility will not address the more systemic problems plaguing our criminal justice system today.

We also believe there is no reason to hold for any period individuals who pose no flight risk and are not charged with a violent crime. That too many individuals are incarcerated for long periods simply because they don't have enough money to post bail should, in itself, be considered criminal. Our money bail system provides no benefit and shows unsympathetic bias in favor of those who have the financial means to await trial at home.

While we believe a non-violent offender who poses no flight risk should not need to petition the court for unsecured bail, this bill would nonetheless move the needle on this issue in the right direction.

For all these reasons, we ask the committee to act favorably on this bill.

Mahalo for the opportunity to testify,

Josh Frost
Co-Chair, Legislation Committee
Democratic Party of Hawai'i

Zahava Zaidoff
Co-Chair, Legislation Committee
Democratic Party of Hawai'i



Hawai'i

LATE

Committees: House Committee on Public Safety, Veterans, & Military Affairs
Hearing Date/Time: Wednesday, March 13, 2019, 10:30 a.m.
Place: Conference Room 430
Re: Testimony of the ACLU of Hawai'i in Support of S.B. 192, S.D. 1, Relating to Bail

Dear Chair Takayama, Vice Chair Gates, and members of the Committee:

The American Civil Liberties Union of Hawai'i writes in **support of S.B. 192, S.D. 1**, which allows courts to offer unsecured bail. It is a positive first step in reforming our fundamentally flawed pretrial system. Research has shown that non-financial options such as unsecured bail are just as effective at ensuring someone's appearance in court as money bail.

An unsecured bond would require no upfront payment. Instead, the individual would sign a promissory note and the bail amount would be due if that person did not show up to court or comply with their conditions of release. This option helps people who cannot afford their bail, and reduces the involvement of for-profit agencies. **While we believe that this proposal is only one piece in a much larger puzzle of solving Hawaii's broken pretrial system,** we appreciate that this legislation would reduce the system's disparate harm on low-income people.

Pretrial incarceration is one of the major drivers of overcrowding in Hawai'i's jails. Currently, around 1,000 men and women in Hawai'i – around half of the individuals in Hawai'i's jails – have not been convicted of the crime they're accused of committing and are merely awaiting trial, often because they cannot afford the amount of bail set in their case.¹

To better understand why so many people, who are innocent in the eyes of the law, are being jailed pretrial in Hawai'i's jails, the ACLU of Hawai'i recently conducted an in-depth study of the state's bail setting practices. Our study reviewed all cases filed in Hawai'i's circuit courts in 2017. While we have published a preliminary report examining cases between January and June of 2017, this testimony reflects our most recent findings, which includes a full year's worth of cases.

Courts' reliance on money bail results in people who otherwise pose no risk of flight or threat to public safety staying in jail because they are simply too poor to get out. Our research revealed that circuit courts heavily rely on the use of money bail to secure court appearances, setting cash bail as a condition of release in 90 percent of cases. The Pretrial Task Force similarly found that Hawai'i's system "relies upon money bail largely to the exclusion of other financially-neutral alternatives" and that this is problematic because "the setting of money bail alone . . . does not

¹ State of Hawai'i Dep't of Pub. Safety, End of Month Population Report (Feb. 28, 2019).

correlate with a defendant's risks of non-appearance, danger, or recidivism."² Put simply, money bail is not necessary to ensure public safety or an individual's appearance in court.

Moreover, courts often assign money bail solely based on the crime charged and without regard to an individual's financial circumstances. Indeed, the median bail amount on Oahu for a single class C felony was \$11,000. This is despite the lack of serious inquiry into ability to pay or specific risks of flight or danger to the community. Given this and that about half of Hawai'i residents cannot afford to cover basic needs³, it was not a surprise when we learned that only 46 percent of arrestees were able to post bail. Allowing courts to offer unsecured bail preserves judicial discretion in bail setting while also honoring HRS Section 804-9, which requires considering one's ability to pay and not rendering the right to bail "useless to the poor."⁴ S.B. 192, S.D. 1 offers an alternative to cash bail that is just as effective in ensuring an individual's appearance in court.

For these reasons, the ACLU of Hawai'i supports S.B. 192, S.D. 1. Hawai'i's pretrial system is ripe for reform. With the passage of S.B. 192, Hawai'i can begin to address overcrowding in its jails while also creating a more individualized system that is in line with constitutional and fairness principles.

Thank you for the opportunity to testify.

Sincerely,



Mandy Fernandes
Policy Director
ACLU of Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for 50 years.

² Hawai'i Criminal Pretrial Reform, Recommendations of the Criminal Pretrial Task Force to the Thirtieth Legislature of the State of Hawai'i, pp 66-67 (December 2018).

³ Alice: A Study of Financial Hardship in Hawai'i (2017), available at: https://www.auw.org/sites/default/files/pictures/AlohaUnitedWayALICE%20Report_HIFINAL.pdf.

⁴ Haw. Rev. Stat. § 804-9 ("The amount of bail . . . should be so determined as not to suffer the wealthy to escape by the payment of a pecuniary penalty, nor to render the privilege useless to the poor. In all cases, the officer letting to bail should consider the punishment to be inflicted on conviction, and the pecuniary circumstances of the party accused.").



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COMMITTEE ON PUBLIC SAFETY, VETERANS & MILITARY AFFAIRS
WEDNESDAY, March 13, 2019, 10:30 a.m., Room 430

SB 192 SD1 RELATING TO BAIL
TESTIMONY

Laurie Tomchak, Legislative Committee, League of Women Voters of Hawaii

Chair Takayama, Vice-Chair Gates and Committee Members:

The League of Women Voters supports SB192 SD1, which authorizes a defendant in custody to petition a court for unsecured bail if securing the bail bond would result in significant financial hardship; and continued incarceration would jeopardize the defendant's ability to maintain employment, remain enrolled in any educational or training program, care for a dependent, continue medical or therapeutic treatment, or maintain housing.

The bail system is a little like the board game Monopoly. After you have been charged with a misdemeanor or felony, the judge may give you a card that sends you to jail: do not pass go, do not collect two hundred dollars. If you are a poor defendant, that is what you get. Or you can be given a get out of jail card. The roll of the dice that made you wealthy will give you the means to pay bail or get a bail bond. You do not have to rely on an overworked public defender and can work on your defense more easily. Whether you are innocent or guilty, you will get your bail or bond money back, less "court costs."

Those who end up staying in jail because they can't pay thousands of dollars for bail or hundreds for bail bond may stay locked up for weeks or even months, depending on how long their cases take to come to trial. In that time, they are unable to work (and thus may lose their jobs) or otherwise earn money to pay rent or mortgages, support their children or keep up with their bills.

Another negative consequence of this system is that the people who are in jail pretrial may be innocent. They may have trouble resuming daily life after the court and prisons let them go. They may even plead guilty just for that get out of jail Monopoly card that can enable them to go



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back to work and family. The prosecutor may pressure them to make a guilty plea, even when it is not in their interest.

If bail is taken out of the picture, rich and poor defendants are on a more level playing field (it will never be completely level). The prison system will not be so crowded and instead of relying on private prisons or building more jails, money can go into systems like pretrial supervised release.

Thank you for letting us testify on this important criminal justice issue, and please make the bill effective once it has passed.



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Date: March 13, 2019

To: The Honorable Gregg Takayama, Chair
The Honorable Cedric Asuega Gates, Vice Chair
House Committee on Public Safety, Veterans, and Military Affairs

From: Justin Murakami, Manager, Prevention Education and Public Policy
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Opposition to S.B. 192 S.D. 1
Relating to Bail

Good morning Chair Takayama, Vice Chair Gates, and members of the House Committee on Public Safety, Veterans, and Military Affairs:

The Sex Abuse Treatment Center (SATC) respectfully opposes S.B. 192 S.D. 1.

In its current form, this measure would allow criminal defendants to be released on unsecured bail bond, without providing Hawaii the tools and infrastructure needed to ensure their appearance in court and – of key concern to SATC – protect crime victims, witnesses, and the community.

Pretrial Risk Assessment

An effective, validated pretrial risk assessment tool that predicts whether a defendant will (a) appear for court, (b) commit more crimes, or (c) be a danger to specific persons and the public, is at the core of other jurisdictions' adoption of model unsecured bail practices.

However, it is our understanding that the Ohio Risk Assessment System Pretrial Assessment Tool (ORAS-PAT) used by the Department of Public Safety (DPS) only assesses a defendant's likelihood of appearance in court and general recidivism, and not whether they are a danger to specific people or the public.

Moreover, a 2017 Ohio re-validation study found that ORAS-PAT may have a high failure rate, with defendants deemed "low risk" by ORAS-PAT newly arrested 19.3 percent of the time, and newly convicted 10.3 percent of the time, within 6 months.

Hawaii needs a new, validated tool that is more accurate than ORAS-PAT and would be able to assess whether a defendant is a danger to specific people or the general public to support any proposal to provide unsecured bail bond to defendants. Unfortunately, S.B. 192 S.D. 1 does not reach this important issue.

Monitoring, Enforcement, and Collection Activities

Despite the issues identified with the commercial bail industry, bail bond companies are effective in ensuring that defendants will appear in court and that they do not commit new crimes while on pretrial release.

To accomplish these outcomes, commercial bail companies impose additional conditions on released defendants and invest in ongoing monitoring, enforcement activities, and collection of forfeited bail amounts. If the State of Hawaii became an unsecured bail jurisdiction, the public would become lenders to defendants in place of commercial bail companies.

To ensure that defendants appear for court, do not commit more crimes, and that amounts owed to the public are recovered, a competent state agency would need to be designated, provided staff and resources, and granted authority to conduct monitoring, enforcement, and collection activities.

Hawaii should be cognizant of the example of the First Judicial District of Pennsylvania (Philadelphia), which did a poor job of administering its unsecured bail system. By 2008, approximately 19,000 defendants failed to appear each year, estimated cost of uncollected forfeited bail totaled a billion dollars, and defendants were able to defeat the system by failing to showing up for court, wearing down witnesses, and causing cases to collapse in large numbers.

The current language of S.B. 192 S.D. 1 only directs courts to take unspecified steps to collect forfeited bail amounts, without designating the actual mechanisms by which unsecured bail bond recipients will be monitored, enforcement action taken, and forfeited amounts recovered.

Without this infrastructure in place, in the interests of public safety and the integrity of our criminal justice system, Hawaii should not implement unsecured bail bond practices.

We appreciate this opportunity to testify on S.B. 192 S.D. 1 and ask that this measure please be deferred.

Office of Hawaiian Affairs
State of Hawai‘i
Testimony of Trustee Carmen Hulu Lindsey

State of Hawai‘i to the House of Representatives Committee Public Safety, Veterans, and
Military Affairs

March 11, 2019

Aloha e Chair Takayama, Vice Chair Gates, and Members of the Committee:

My name is Carmen Hulu Lindsey and I am the Trustee for Maui County for the Office of Hawaiian Affairs (“OHA”). I am submitting this testimony **in strong support of SB 192 SD1**. Native Hawaiians are overrepresented in every stage of Hawai‘i’s criminal justice system, and disproportionality increases as Native Hawaiians go further into the system, making it harder to leave and stay out of prison. SB 192 SD 1 seeks to reduce the severe and disproportionate consequences of cash bail on poor defendants and communities, save a significant amount of taxpayer dollars, and provide relief to the overcrowding of our detention facilities, by allowing judges to offer “unsecured bail” as an additional-alternative bail option.

The purpose of bail is to not punish the accused but allows for their pretrial release and ensure their return to court; however, our cash bail system as applied effectively punishes low-income defendants without a trial. Unfortunately, the overreliance on cash-secured bail -- which releases defendants based on their ability to pay, more so than on whether a defendant is an actual flight risk or poses a risk to public safety -- has turned our bail system into one that punishes the poor, without a trial or conviction. In January 2018, 1,529 of 1,735 (88%) of cases in Hawai‘i, circuit courts set money bail. Of the 1,529 individuals with money bail, only 676 individuals (44%) had posted bail.¹

While our bail system heavily relies on money, the system fails to adequately address or inquire into the finances of the arrestees. Pre-trial cash bail disproportionately impacts indigent defendants and is a major factor in overcrowding of detention facilities.² Money bail is inappropriately used to keep people in pretrial detainment based on the crime charged or the perceived danger posed by the individual. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the indigent who cannot afford to post bail. For such individuals, being too poor to surrender their cash bail

¹ ACLU OF HAWAII, AS MUCH JUSTICE AS YOU CAN AFFORD: HAWAII’S ACCUSED FACE AN UNEQUAL BAIL SYSTEM 23 (2018).

² HCR 85 TASK FORCE, CREATING BETTER OUTCOMES, SAFER COMMUNITIES, FINAL REPORT OF THE HOUSE CONCURRENT RESOLUTION 85 TASK FORCE ON PRISON REFORM TO THE HAWAII LEGISLATURE 2019 REGULAR SESSION xvi (2018). Reducing the pretrial population by just 50% could save the State more than \$45,000 per day, or \$16 million per year. Reducing the number of pretrial detainees by 50% would also mean that the State would need about 250 fewer beds at the new jail, which would save hundreds of millions of dollars in construction costs, not to mention millions of dollars more in savings from reduced maintenance and operating costs over the life of the new jail.

amount means the loss of their freedom, and the loss of jobs, housing, and custody. Some indigent defendants may even forego their right to trial and agree to plea deals in exchange for more certain release dates.

SB192 SD1's unsecured bail alternative will help to ensure that poor defendants are not unnecessarily punished by our secured-cash bail system. This measure simply allows judges the discretion in offering indigent defendants who cannot afford to post bail the option of unsecured bail. Specifically, judges may grant such "unsecured bail" to a defendant granted cash bail who 1) would face financial hardship in surrendering their set bail amount or paying a bail bonding agent, and 2) would face threats to their employment, housing, health, or family stability if they were to remain incarcerated pending trial; judges may make their decision based on a defendant's and their co-signers' financial and personal circumstances, pre-trial risk assessment factors, the offense charged and potential sentence carried, and any other relevant factors. Should a defendant fail to appear at trial or violate any conditions of their release, the promissory note and any surrendered bail amount would ensure that the defendant and their cosigners are still held financially accountable.

Unlike traditional cash bail, "unsecured bail" allows indigent defendants to secure their release by signing a promissory note for their full or partial bail amount, which is enforced only if they fail to appear at trial; thus, defendants would not be required to surrender cash up-front. This method of release has proven successful in other jurisdictions, such as the federal system, where defendants return to court and discharge their obligations to the court. Unsecured bail can thereby reduce the disparate impacts and severe consequences of the cash bail system on the indigent, while still holding defendants financially accountable if they fail to appear.

In other jurisdictions and in the federal system, unsecured bail has proven to successfully relieve the burden of cash bail on the poor, while reducing the overcrowding of detention facilities, with studies further showing no effect on trial appearance rates. Hawai'i would join the many states and the federal government that have enacted statutory presumptions that focus on unsecured bonds, giving the courts the ability to make individual determinations on whether defendant poses a risk that requires more restrictive conditions or detention.³ Studies from other jurisdictions show that unsecured bail is just as effective at ensuring defendants' court appearance and maintaining public safety as cash-secured bail, while being far more efficient than cash bail at freeing up jail space. Thus, SB192 SD1's unsecured bail system offers an alternative that can reduce the severe consequences of cash bail on poor defendants and communities provide relief to rampant overcrowding in our detention facilities, and save taxpayer dollars —without affecting trial appearance rates or public safety.

³ See 18 U.S.C. § 3142(c)(1)(B) (2008); D.C. Code § 23-1321(b)-(c)(1)(B) (2016); 11 Del. Code § 2105 (2013); Iowa Code Ann. § 811.2 (2013); Ky. Rev. Stat. Ann. § 431.520 (2014); Mass. Gen. Laws Ann. Ch. 276 § 58 (2010); Me. Rev. Stat. Ann. tit. 15 § 1026 (2-A) (2016); Neb. Rev. Stat. § 29-901(1) (2017); N.C. Gen. Stat. § 15A-534(b) (2016); Or. Rev. Stat. Ann. § 135.245(3) (2009); S.C. Code Ann. § 17-15-10 (2015); SDCL § 23A-42-2 (1982); Wis. Stat. § 969.01(1) (2010). Some other states have adopted this presumption by court rule. See Ariz. R. Crim. P. 7.2(a)(2) (2018); Minn. R. Crim. P. 6.01 (2010); Wy. R. Crim. P. 46.1(b) (2017).

SB192 SD1's proposed unsecured bail system does not conflict with the recommendations of the HCR134 Task Force on pretrial reform. In fact, SB192 SD1's unsecured bail proposal complements the Task Force's recommendations, by mitigating the disparate impacts of cash bail that may remain even if the Task Force's recommendations are adopted. SB192 SD1's proposed system can also stand alone as an independent approach to reducing the impacts of the cash bail system on indigent communities, should the Legislature decline to adopt some or the Task Force's recommendations.

I respectfully urge the Committee to **PASS** SB192 SD1. Mahalo for the opportunity to testify on this important measure.

SB-192-SD-1

Submitted on: 3/8/2019 12:18:49 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

I strongly support SB192 SD1. The unsecured bail system being proposed offers an alternative that can reduce the severe consequences of cash bail on poor defendants and communities, provide relief to rampant overcrowding in our detention facilities, and save taxpayer dollars —without affecting trial appearance rates or public safety.

SB-192-SD-1

Submitted on: 3/8/2019 10:23:15 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jen Jenkins	Individual	Support	No

Comments:

SB-192-SD-1

Submitted on: 3/10/2019 11:32:20 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

STRONG SUPPORT!

SB-192-SD-1

Submitted on: 3/11/2019 8:02:10 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Christine Weger	Individual	Support	No

Comments:

Aloha, please consider:

(1) Your own commissions report that our overcrowded jails are due largely to the fact that we have an unusually high rate of pre-trial incarceration.

(2) Any money bail system disproportionately jails the poor--and incarceration, even for short time periods, often results in the loss of employment and financial disaster for the family--a domino effect that only increases poverty and crime.

(3) Statistics show that over half of detainees plead guilty simply in order to secure quicker release from pre-trial detention.

This system is morally and constitutionally unsound. And even more shameful in the Aloha State. Please do something about this.

Mahalo,

Christine Weger, Atty at Law

SB-192-SD-1

Submitted on: 3/11/2019 8:03:05 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Donna K Santos	Individual	Support	No

Comments:

SB-192-SD-1

Submitted on: 3/11/2019 8:25:08 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
R Siciliano	Individual	Support	No

Comments:

Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,

I support the reduction and elimination of cash bail in Hawaii. Cash bail in its current form is punitive - pretrial excessive punishment - that falls hardest on those least able to afford it, disrupting their lives and their families' and leading many to be endlessly caught up in the criminal justice system.

Thank you.

SB-192-SD-1

Submitted on: 3/11/2019 8:34:05 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kamuela Werner MPH	Individual	Support	No

Comments:

SB-192-SD-1

Submitted on: 3/11/2019 8:37:49 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alyson N Barrows	Individual	Support	No

Comments:

I support SB192 that create a fair and equitable bail process that does not penalize the poor or medium income bracket defendants because they cannot afford the bail. With the cost of living rising and pay rates are only elevated to match the rising cost and not improving but remain stationary. The government needs to make better decisions and this is one alternative in keeping the cost down.

Testimony of Philip H. Lowenthal

Aloha Hon. Committee Chair and Members

Over the past 50 years, as a practicing Hawaii attorney, I have observed steadily increasing pretrial detainees as bail has increased. The only beneficiary has been the bail bond industry. The cost to the State has been enormous. The cost to the detainees is incalculable, as it only takes a few days of detention to lose a job, a home, and a reputation.

The inequities between the rich and the poor are exacerbated contrary to our mantra of "equal justice for all".

In the federal court system there are relatively few pretrial detainees and most arrestees are released on their execution of a signature bond. Bail is generally set in an amount an arrestee can afford. The bail bond industry is not supported by the judiciary. There is no apparent problem with "no-shows" and no public outcry.

I urge you to support the bail reform bills.

SB-192-SD-1

Submitted on: 3/11/2019 10:31:26 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carla Allison	Individual	Support	No

Comments:

I strongly support SB192. I am a strong proponent of unsecured bail because it treats people with dignity and respect, taking into account the person's circumstances and responsibilities. It is a contract that the person signs agreeing to show up in court and, if they fail to do so, accepting the responsibility for paying the bail amount. This is bill that moves us towards reforming Hawai'i's very broken correctional system. Pre-trial detainees are innocent until proven guilty but our current cash bail system works only for those who can afford to pay.

An unsecured bail alternative will help to ensure that poor defendants are not unnecessarily punished by our secured-cash bail system. This bill provides another tool to reduce pre-trial incarceration. Research has shown that when pre-trial people are incarcerated; their likelihood of going to prison increases. Fewer incarcerated pre-trial people will have a positive impact on the prison population.

SB-192-SD-1

Submitted on: 3/11/2019 12:26:58 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Leanne Fox	Individual	Support	No

Comments:

I strongly support SB192 SD1 that would create a more fair and equitable bail process by providing judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming data nationwide shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has multiple detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail, the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail, without having to pay cash upfront. Data has shown that unsecured bail is just as effective at ensuring defendants' court appearance and maintaining public safety as cash bail, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary impacts on indigent families.

I humbly request that you pass SB192 SD1 out of your committee.

SB-192-SD-1

Submitted on: 3/11/2019 1:11:44 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Angela Correa_pei	Individual	Support	No

Comments:

I strongly support SB192 that would create a more fair and equitable bail process by providing judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming data nationwide shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has multiple detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail, the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail, without having to pay cash upfront. Data has shown that unsecured bail is just as effective at ensuring defendants' court appearance and maintaining public safety as cash bail, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary impacts on indigent families. I humbly request that you pass SB192 out of your committee.

SB-192-SD-1

Submitted on: 3/11/2019 2:13:31 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Winternitz	Individual	Support	No

Comments:

I strongly support SB192 that would create a more fair and equitable bail process by providing judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming data nationwide shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has multiple detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail, the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail, without having to pay cash upfront. Data has shown that unsecured bail is just as effective at ensuring defendants' court appearance and maintaining public safety as cash bail, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary impacts on indigent families. I humbly request that you pass SB192 out of your committee.

SB-192-SD-1

Submitted on: 3/11/2019 3:20:39 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kehaulani Shintani	Individual	Support	No

Comments:

I support SB 192. This will help with overcrowding in our jails.

Mahalo

SB-192-SD-1

Submitted on: 3/11/2019 5:05:00 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
William Caron	Individual	Support	No

Comments:

Aloha Chair Takayama, Vice Chair Gates, Members of the Committee on Public Safety, Veterans, and Military Affairs,

Jurisdictions across the country are coming to terms with the fact that draconian criminal justice policies like Three Strikes, Mandatory Minimums and The War on Drugs have been complete failures in their supposed missions of reducing crime in America. What's worse, research suggests that many of these policies have actually made communities less stable, increasing crime and taking away hope and opportunity for millions of Americans with no good reason. As a result, these jurisdictions are moving away from punitive measures that lead to over-policing and over-incarceration, particularly among communities of color. Smart Justice, or criminal justice policies based on a growing body of data and analysis, now spanning two decades, is replacing Tough on Crime stances, and the results show widespread success in both reducing crime and preserving the integrity and strength of communities.

Like the policies mentioned above, cash bail leads to over-incarceration and destroys communities, all without reducing crime or improving public safety. On top of that, it is a violation of constitutional rights to due process by creating a de facto, pre-conviction punishment for those who are unable to afford to post their bail. And in today's growing climate of economic inequality, this is representative of more and more people, with communities of color again being disproportionately impacted. SB192 acts as a work around for this highly problematic situation by allowing the accused to petition the court for unsecured bail, sidestepping the cash bail problem, provided they can show that:

1. Securing the bail bond or obtaining a surety or sureties to secure the bail bond pursuant to section 804-11.5 would result in significant financial hardship: and
2. The continued incarceration of the defendant would jeopardize the defendant's ability to maintain employment, remain enrolled in any educational or training program, care for a dependent, continue medical or therapeutic treatment, or maintain housing;

Bail bondsmen will tell you that they are just small mom and pop businesses trying to provide a service to the community. In fact, they are a localized racket funded by multinational insurance companies whose business model relies on exploiting poor people, especially in communities of color.

In jurisdictions where cash bail policy has been eliminated, or drastically reduced, rates of crime have remained stable and are statistically identical to states where cash bail is still widely used. Moreover, rates of court attendance are actually higher in jurisdictions where cash bail has been replaced with a risk assessment system and an electronic, text message-based reminder system. But the most important aspect for me is that, in jurisdictions where cash bail has been repealed, the chances that a nonviolent encounter with the law will result in a loss of housing, employment or custody—that a life will be destroyed—has been proven to be greatly reduced.

When we destroy a person's life by holding them in jail, even before they have been convicted of a crime, we are increasing the likelihood that person will commit more, increasingly dangerous offenses; we are increasing the likelihood that person will become homeless; or drug-addicted; we are increasing the chances they will need emergency health care services; we are increasing the chances that taxpayers will need to foot the bill for either prison time, welfare services, medical treatment and more. There is no good reason for it. Please pass SB192 and start the path toward reform here in Hawai'i.

FACTS & DATA

In the United States, the accused is presumed innocent until proven guilty, and the the Fifth and Fourteenth Amendments prohibit depriving a person of his or her liberty without due process of law (including while awaiting trial and regardless of indigence).

Hawai'i's courts currently require bail as a condition of release in 88 percent of cases. More than half of the arrestees in those cases were unable to post the amount required by the court. Although Hawai'i's Constitution prohibits "excessive bail," many judges in Hawai'i admit to arbitrarily setting bail at a certain amount based solely on the offense the individual is accused of committing. Source: <https://acluhi.org/bailstudy/>

In Hawai'i, some 1,145 individuals are currently being held behind bars without having been convicted of a crime. Nationwide, 443,000 people are being detained without ever having been tried in a court of law. This is a gross violation of their civil liberties and amounts to an unconstitutional, extrajudicial punishment. Sources: <https://dps.hawaii.gov/wp-content/uploads/2018/01/Pop-Reports-EOM-2017-12-31.pdf>; <https://www.prisonpolicy.org/reports/pie2017.html>

In Hawai'i, 64 percent of those who could not afford bail changed their plea to guilty to get out of jail sooner. Using pre-trial detention to coerce arrestees into guilty pleas is routine practice for prosecutors throughout the country. Furthermore, a 2012 study conducted by the New York City Criminal Justice Agency found that pretrial detention has a negative impact on trial outcomes: among non-felony cases with no pretrial detention, 50 percent ended in conviction compared to a 92 percent conviction rate among cases with an arrestee who was detained. Sources: <https://university.pretrial.org/HigherLogic/System/DownloadDocumentFile.ashx?Docum>

[entFileKey=4c666992-0b1b-632a-13cb-b4ddc66fadcd&forceDialog=0;](#)
<https://www.hrw.org/report/2017/04/11/not-it-justice/how-californias-pretrial-detention-and-bail-system-unfairly>; <http://www.nycja.org/library.php#>

Most bail for all felony charges in the First Circuit is set in the \$11,000 to \$25,000 range, but it was as high as \$1 million in eight cases and \$2 million in two cases in 2015.

Source: <https://acluhi.org/bailstudy/>

In Hawai'i, Native Hawaiians and Pacific Islanders are more likely to be arrested and detained with a bail amount set to an unreasonable cost based on their charge, record or lack thereof, and socioeconomic status. Source: <https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/2015/01/native-hawaiians-criminal-justice-system.pdf>

Hawai'i spends more than \$60 million on pretrial incarceration each year. It costs a lot of money to lock people up behind bars: about \$54,500 per detainee each year, or \$150 per day. Compare this to Washington D.C., which releases 85-90 percent of pretrial arrestees and spends a mere \$18 a day in supervising costs per individual. The U.S. spends \$13.6 billion annually to detain people who have not been convicted of a crime.

Sources: <https://dps.hawaii.gov/wp-content/uploads/2018/01/Pop-Reports-EOM-2017-12-31.pdf>; https://www.psa.gov/?q=data/performance_measures;
<https://www.prisonpolicy.org/reports/pie2017.html>

Six out of nine Hawai'i facilities are "over design capacity" and four of those are over "operational capacity." Source: <https://dps.hawaii.gov/wp-content/uploads/2018/01/Pop-Reports-EOM-2017-12-31.pdf>

SB-192-SD-1

Submitted on: 3/11/2019 10:16:11 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Wayne	Individual	Support	No

Comments:

Mahalo nui for the opportunity to testify in STRONG SUPPORT of SB192 SD1.

This measure would provide critical relief to our clearly overcrowded jail facilities, reduce the disparate impact of cash-secured bail on indigent defendants, and allow more of our pretrial detention resources to be focused on those who truly should remain detained pending trial, rather than those who are simply too poor to post bail.

Thank you,

Wayne Tanaka

SB-192-SD-1

Submitted on: 3/12/2019 6:22:48 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Steven Mitchell	Individual	Support	No

Comments:

Subject: Fwd: ACTION ALERT: SB192 - Relating to Bail Reform**SAMPLE TESTIMONY**

I strongly support SB192 that would create a more fair and equitable bail process by providing judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming data nationwide shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has multiple detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail, the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail, without having to pay cash upfront. Data has shown that unsecured bail is just as effective at ensuring defendants' court appearance and maintaining public safety as cash bail, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure

merely gives judges an additional option that could prevent unnecessary impacts on indigent families. I humbly request that you pass SB192 out of your committee.

March 12,2019

SUPPORT FOR SB192—Unsecured Bail

TO: Chair Greg Takayama, Vice Chair Cedric Gates and Members of the Committee

FROM: Barbara Polk

I support SB192 because it will allow reduction of cash bail amounts for those who cannot afford it, to allow them to continue with their lives. Because a person who is awaiting trial is considered innocent until tried and found guilty, it is not appropriate to completely disrupt the life and well being of someone who is no risk to society and may be innocent.

Please support SB192.

SB-192-SD-1

Submitted on: 3/12/2019 7:38:52 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Christina H. Young	Individual	Support	No

Comments:

I strongly support SB192 SD1 that would create a more fair and equitable bail process by providing judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming data nationwide shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has multiple detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail, the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail, without having to pay cash up front. Data has shown that unsecured bail is just as effective at ensuring defendants' court appearance and maintaining public safety as cash bail, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary impacts on indigent families. I humbly request that you pass SB192 SD1 out of your committee.

SB-192-SD-1

Submitted on: 3/12/2019 8:12:06 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
keomailani von gogh	Individual	Support	No

Comments:

r who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has multiple detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail, the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail, without having to pay cash upfront. Data has shown that unsecured bail is just as effective at ensuring defendants' court appearance and maintaining public safety as cash bail, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary impacts on indigent families. I humbly request that you pass SB192 out of your committee.

PVMtestimony

From: Carla Allison <noreply@jotform.com>
Sent: Saturday, March 9, 2019 9:17 PM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 - Carla Allison



Testimony in Support of SB192

Name	Carla Allison
Email	cbm@hawaii.rr.com
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

PVMtestimony

From: david derauf derauf <noreply@jotform.com>
Sent: Sunday, March 10, 2019 4:00 PM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 - david derauf derauf



Testimony in Support of SB192

Name	david derauf derauf
Email	derauf@hawaii.edu
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

PVMtestimony

From: Ida Peric <noreply@jotform.com>
Sent: Saturday, March 9, 2019 7:02 PM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 - Ida Peric



Testimony in Support of SB192

Name	Ida Peric
Email	peric.ida@gmail.com
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

PVMtestimony

From: Jun Shin <noreply@jotform.com>
Sent: Saturday, March 9, 2019 6:38 PM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 - Jun Shin



Testimony in Support of SB192

Name	Jun Shin
Email	junshinbusiness729@gmail.com
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

PVMtestimony

From: noreply@jotform.com
Sent: Sunday, March 10, 2019 4:04 PM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 -



Testimony in Support of SB192

Subject

Testimony in SUPPORT of SB192

Testimony

Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,

Aloha Chair Nishihara, members of the Committee on Public Safety, Intergovernmental, and Military Affairs,

My name is Kainani Derrickson. I am testifying in support SB 192 I support a reduction or elimination of our state's overreliance on cash bail in determining pretrial incarceration. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes. An astounding 50% of detainees in our detention facilities do not post bail, primarily because they cannot afford it. These detainees spend an average of 90 days held behind bars pre-trial at the cost of \$146/day per person. Notably, detaining individuals for weeks or months before their trial simply because they are too poor to post bail represents a substantial cost to taxpayers and further exacerbates the overcrowding in already overburdened detention facilities. Besides this, cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems, and crime: costs for which we all pay the price. Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart pretrial reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail. Hawaii is poised with the opportunity to make our justice system not only more just but

also less expensive. For the reasons set forth above,
I respectfully ask the Committee to PASS SB 192.

Thank you for the opportunity to testify on this bill.

You can [edit this submission](#) and [view all your submissions](#) easily.

PVMtestimony

From: Kevin Landers <noreply@jotform.com>
Sent: Sunday, March 10, 2019 11:43 AM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 - Kevin Landers



Testimony in Support of SB192

Name	Kevin Landers
Email	kvnplndrs@gmail.com
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Aloha: Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,</p> <p>You must put a stop to caging our cousins for no better reason than their lack of money. This is exactly what you are allowing to happen if you believe in their constitutional right to an assumption of innocence until proven guilty by a court.</p> <p>Mass incarceration begins with punitive pre-trial detention, and affects people disproportionately according to race. Hawaiians are thus subject to the cosmogenic violence that is ripping them from their homeland and sent to a for-profit prison on the continent. This begins with money bail. Begin ending it now with this bill.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

PVMtestimony

From: Landon Li <noreply@jotform.com>
Sent: Sunday, March 10, 2019 7:40 PM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 - Landon Li



Testimony in Support of SB192

Name	Landon Li
Email	landonli@hawaii.edu
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

PVMtestimony

From: Leilani Riahi <noreply@jotform.com>
Sent: Sunday, March 10, 2019 4:46 PM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 - Leilani Riahi



Testimony in Support of SB192

Name	Leilani Riahi
Email	Iriahi7@hawaii.edu
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

PVMtestimony

From: Marion McHenry <noreply@jotform.com>
Sent: Sunday, March 10, 2019 2:02 PM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 - Marion McHenry



Testimony in Support of SB192

Name	Marion McHenry
Email	bob-marion@hawaiiantel.net
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

PVMtestimony

From: Nathan Yuen <noreply@jotform.com>
Sent: Monday, March 11, 2019 1:37 PM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 - Nathan Yuen



Testimony in Support of SB192

Name	Nathan Yuen
Email	808nateyuen@gmail.com
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

From: Robert McHenry <noreply@jotform.com>
Sent: Sunday, March 10, 2019 2:03 PM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 - Robert McHenry



Testimony in Support of SB192

Name	Robert McHenry
Email	bob-marion@hawaiiantel.net
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

PVMtestimony

From: Shannon Rudolph <noreply@jotform.com>
Sent: Monday, March 11, 2019 10:29 AM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 - Shannon Rudolph



Testimony in Support of SB192

Name	Shannon Rudolph
Email	shannonkona@gmail.com
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

PVMtestimony

From: Shawn Valente <noreply@jotform.com>
Sent: Saturday, March 9, 2019 11:43 PM
To: PVMtestimony
Subject: Re: Testimony in Support of SB192 - Shawn Valente



Testimony in Support of SB192

Name	Shawn Valente
Email	Svblue.mist2322@gmail.com
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Takayama, Vice Chair Gates, members of the Committee on Public Safety, Veterans, & Military Affairs,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

SB-192-SD-1

Submitted on: 3/12/2019 10:19:21 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Terina Faagau	Individual	Support	No

Comments:

I strongly support SB192 that would create a more fair and equitable bail process by providing judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming data nationwide shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has multiple detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail, the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail, without having to pay cash upfront. Data has shown that unsecured bail is just as effective at ensuring defendants' court appearance and maintaining public safety as cash bail, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary impacts on indigent families. I humbly request that you pass SB192 out of your committee.

SB-192-SD-1

Submitted on: 3/12/2019 10:43:20 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Craig De Costa	Individual	Support	No

Comments:

I strongly support SB192 to create a fair and equitable bail process by providing judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming data nationwide shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has multiple detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail, the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their court dates, an indigent defendant could be released on bail, without having to pay cash upfront. Data has shown that unsecured bail is just as effective at ensuring defendants' court appearance and maintaining public safety as cash bail, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary impacts on indigent families. I humbly request that you pass SB192 out of your committee.

SB-192-SD-1

Submitted on: 3/13/2019 6:21:05 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Ashley LeCarno	Individual	Support	No

Comments:

I support this bill.

LATE

SB-192-SD-1

Submitted on: 3/13/2019 7:34:10 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Shanyalyn Ke'alaula Lalawai	Individual	Support	Yes

Comments:

Committee on Public Safety,

Veterans, and Military Affairs

Testimony in Strong Support of SB192

Aloha Committee Members,

‘O Shanyalyn Ke’alaula Lalawai ko’u inoa. No Wai’anae mai au. Hele au i ke kula ki’eki’e ‘o Wai’anae. Aia au ma ka papa umikumakahi. Umikumahiku o’u mau makahiki. Aloha everyone, my name is Shanyalyn Ke’alaula Lalawai and I am a 17 year old junior at Wai’anae High School.

I am testifying in support of SB 192 related to Bail Reform. I strongly support this bill because of the impact it could have on our homeless crisis and because it creates a more fair process for all people, especially my Native Hawaiian community. According to The Department of Housing and Urban Development, in 2016 it shows that 42% of Hawaii’s homeless population identifies as Native Hawaiian or other Pacific Islander. 13.5% of Native Hawaiians were reported as living in poverty as of 2017, according to a Civil Beat Report. SB 192 can help to address our homeless crisis because this bill gives all people a fair opportunity to be released from jail while they await trial. I understand that many people worry about the consequences of defendants being released from jail, but ultimately that decision lies with the judge. If a judge grants a defendant bail, SB 192 gives ALL defendants, those who live in poverty and those who are financially stable the same opportunity. Under the current bail system, a poor person who cannot post bail is forced to sit in a jail cell, which affects their ability to continue to work and provide for their families. This could result in them eventually losing their homes, their jobs, and possibly their children. Not only does it affect the person themselves, but if they lose their children, it increases the number of children that are put in the system. When the defendant is finally released from jail, they are left with nothing, forcing many of them to become homeless, which then increases our homeless crisis. The defendant that was financially stable does not have to deal with

the same circumstances and is able to continue their everyday lives and are able to provide for their family. This current system is extremely unfair especially for my people and others who lives in poverty.

Another reason I support SB 192 is because it will help to address the overcrowding issue of our detention facilities. If we allow all defendants, who have been granted bail, equal opportunity to be released from jail, as they await trial, it will cut down on the overcrowding issue at the facilities which then would benefit the defendants, the detention facilities, and our taxpayers. The monies that it would take to house and feed those defendants could be used otherwise for improving other issues in those facilities.

For these reasons, I support SB 192 Relating to Bail Reform because it will help address overcrowding and it will give all defendants equal opportunity to be released from jail so they can continue to support their families and not end up houseless. Mahalo for your time and I hope you will support it as well.

Aloha,

Shanyalyn Ke'alaula Lalawai

LATE

HOUSE OF REPRESENTATIVES
THE THIRTIETH LEGISLATURE
REGULAR SESSION OF 2019

COMMITTEE ON PUBLIC SAFETY, VETERANS, & MILITARY AFFAIRS

Rep. Gregg Takayama, Chair

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Rep. Dale T. Kobayashi Rep. Takashi Ohno
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AMENDED NOTICE OF HEARING

DATE: Wednesday, March 13, 2019
TIME: 10:30 A.M.
PLACE: Conference Room 430
 State Capitol
 415 South Beretania Street

SB 192, SD1
(SSCR1058)
Status

RELATING TO BAIL.
Authorizes a defendant in custody to petition a court for
unsecured bail. (SD1)

PVM, JUD, FIN

Testimony SB 192, SD1. Opposed, Recommend Hold.
Presented by James Waldron Lindblad.

This bill purports to make bail fairer to those with no money but judges already have this authority via the pretrial process and routinely release many on OR, own recognizance, and SR, supervised release. HPD booking logs verify the many releases from HPD cellblock every weekend. HPD logs confirm almost every single drunk driver is released on bail or by the weekend duty judge and many more defendants even those held on warrants are not held and

are released so there is no need to then transport or hold those accused. Again, even those with many warrants are routinely released, and this is not the case in New York and other mainland jails. Hawaii already has a high-functioning pretrial process due to the hard work of our judiciary even on the weekends.

This measure will duplicate or make harder already existing pretrial release options and could even make pretrial release harder to obtain pending trial for some who would otherwise be released on their own recognizance or on supervision to ISC. Pretrial release could also be delayed if this confusing measure is forced on the courts.

I agree with the vast majority of front line law enforcement and public safety persons and with the HCR 134 Task Force request of January 22, 2019 where at an informational meeting the HCR 134 Task Force asked for more time to see how the judiciary can improve before enacting new or duplicate legislation requiring unneeded bail procedures rather than allowing for testing and gathering of needed facts and data to ensure best practice.

Prior testimony included the following observations.

“Senate Bill No. 192 authorizes a defendant in custody to petition a court for unsecured bail bond, but does not set forth any procedures with respect to implementation or enforcement. The proposal in this bill requires an agency be designated to monitor the status of any unsecured bonds, and more resources to fund the designated agency. In addition, in the event that the defendant released on unsecured bond does not appear in court, specified procedures regarding the enforcement and collection of the bond are needed because, without enforcement, any incentive for defendants to return to court would be lost.

Moreover, unsecured bonds may not be necessary. In state court, defendants eligible for supervised release are released without any financial obligation. Defendants can be released on their own recognizance, or on supervised release to the Department of Public Safety’s Intake Service Center, to a sponsor (often a family member or friend with a stable residence), or to a treatment program. Because non-financial release alternatives are currently available, there is little need for unsecured bonds.”

Conclusion:

While I appreciate the Committee’s good intentions of improving upon current Procedures, I agree with the Task Force’s recommendation from the informational briefing on January 22, 2019, when it suggested that the prudent next step would be data collection following current changes implemented by various stakeholders, since the conclusion of H.C.R. 134. Besides, Hawaii has a high-functioning pretrial process to begin with and rates high among states with fewest numbers of pretrial persons in custody per-capita. Thus SB 192 is based on a false pretense that statistically, Hawaii’s has high numbers of pretrial detainees when the opposite is true.

See support:

<https://www.hawaiitribune-herald.com/2019/01/28/hawaii-news/bail-reform-on-tap-in-legislature/>

“Hawaii County Prosecutor Mitch Roth attended the legislative briefings by both task forces. He said the need for jail upgrades is real but has misgivings about eliminating cash bail to reduce the jail population. “In Hawaii County, especially, people have the right to have a bail hearing from the get-go,” Roth said. “I’m pretty sure our state has one of the lowest rate of pretrial detainees in the nation.” “Statistics compiled by the nonprofit think tank Vera Institute for Justice back Roth’s assertion. According to its study, in 2015, Hawaii had the fourth-lowest number of pretrial detainees per 100,000 population, 115, trailing only Rhode Island, Vermont and Minnesota. New Mexico had the largest number of pretrial detainees per 100,000 people, 462, followed by Louisiana with 455.”

Thank you for the opportunity to testify on this matter.

Recommend hold or defer SB 192 SD1.

Testimony by, James Waldron Lindblad

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